

## REMARKS

Claims 1-10 are active.

Claims 11-14 have been cancelled.

Claims 1-6 have been amended. Support for amended Claim 1 is found in the original Claims 1, 2 and 4. Support for amended Claim 2 is found in the specification at page 7, paragraph [0022], and original Claim 2. Support for amended Claim 3, is found in original Claims 1 and 3. Support for amended Claim 4, is found in original Claims 1 and 4. Support for amended Claim 5-6 is found in original Claims 5-6.

Amended Claims 1-3 fall within Group I.

Amended Claims 4-6 fall within Group II. Group III is non existent because of the cancelled claims 11-14.

No new matter is believed to be added by entry of these amendments.

Applicants elect, with traverse, Group I, Claims 1-3, drawn to a titanium member.

The Office has required restriction in the present application as follows:

- |            |  |
|------------|--|
| Group I:   | Claims 1-3, drawn to a titanium member comprising 40% by weight or more Ti, a Group IVa element and/or a Group Va element other than Ti wherein the sum of the Ti and the Group IVa and /or Group Va element is at least 90% by weight having the recited grain and texture characteristics;   |
| Group II:  | Claims 4-10, 13 and 14, drawn to a titanium alloy member comprising titanium and an alloy element in which a compositional mean value of substitutional elements is $2.43 < Md < 2.49$ with regard to the energy level "Md" of the d-electron orbit and a compositional mean value of the substitutional elements is $2.86 < Bo < 2.90$ with regard to the bond order "Bo", the "Md" and "Bo" and the process of making such a member; and |
| Group III: | Claims 11-12, drawn to a titanium alloy member exhibiting a dislocation density of $10^{11}/\text{cm}^2$ or less when cold working is carried out by 50% or more.  |

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

The Office, citing PCT Rule 13.1 and 13.2, contends that Groups I-III do not relate to a single general inventive concept because they lack the same or corresponding special technical feature. The Office has made an unsupported conclusion.

Applicants wish to point out that MPEP 1893.03 (d) states that:

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature.

Groups I-II share a common special technical feature a titanium alloy member as set forth in Claim 1. Accordingly, the criteria for unity of invention are satisfied. Therefore the Requirement for Restriction is not sustainable and should be withdrawn.

In addition, Applicants wish to point out that MPEP § 1893.03(d) states that:

A process is "specially adapted" for the manufacture of a product if the claimed process inherently produces claimed product with the technical relationship being present between the claimed process and the claimed.

Whilst making no claims to patentability, Applicants note that the process of Group II can produce the titanium alloy of Group I. Accordingly, the criteria for unity of invention are satisfied and the Requirement for Restriction is not sustainable and should be withdrawn.

Moreover, Applicants respectfully traverse on the grounds that the Office has not shown that a burden exists in searching the entire application.

MPEP in §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits,

even though it includes claims to distinct or independent inventions.

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction. Withdrawal of the Requirement for Restriction is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.



22850

Tel.: (703) 413-3000  
Fax: (703) 413-2220  
NFO/TWB/RMJ/cja

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER, & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Norman F. Oblon', written over a horizontal line.

Norman F. Oblon  
Attorney of Record  
Registration No.: 24,618

Rohitha M. Jayasuriya  
Registration No.: 50,385